

# Kentucky Tax Alert

## File Kentucky Tax Registration Application Early

Most tax practitioners, law firms and bookkeeping services are familiar with the following situations:



- “I’m sorry but we cannot process your application for a liquor license without a sales tax account number.”
- “Your application for a motor vehicle dealer’s license must be held in abeyance until you have obtained a sales tax account number.”
- “You will need a sales tax number to purchase merchandise from our establishment if you intend to resell.”

These are just a few examples of why the Kentucky Tax Registration Application (Form 10A100) should be filed at least 30 days prior to a business opening.

The Department of Revenue’s (DOR) Taxpayer Registration Section processed 21,419 applications in Fiscal Year 2006, which was a 22 percent increase over the previous fiscal year. Early filing of the tax registration application gives the DOR ample time to review the application, contact the taxpayer or their representative for additional information when needed, and assign appropriate account numbers. This also allows the business time to purchase merchandise, stock shelves and open by the desired timeframe.

Prompt registration also helps ensure the proper application of funds. Receipt of returns and payments without an account number delays proper credit and can result in delinquency notices. Requesting account numbers at least 30 days prior to filing of tax returns ensures that the taxpayer will be given correct credit for

his return and payment. If it is not possible to apply for tax numbers prior to filing returns, then the Kentucky tax registration application should be filed with the returns and payment attached to the application. This will again ensure proper credit.

Finally, to assist in year-end-processing of K-2s, the Kentucky tax registration application should be submitted as soon as it is determined that withholding monies will be owed. In many instances, applications are not submitted until the end of the calendar year, regardless of the date employees began working for the business. Each year the Taxpayer Registration Section is inundated with late filed applications, requesting the issuance of withholding account numbers. Submitting applications during this time creates a backlog, increases processing time and ultimately delays the issuance of appropriate account numbers.

The Kentucky Tax Registration Application (Form 10A100) is available online at [www.revenue.ky.gov](http://www.revenue.ky.gov) and may be mailed or faxed. In an effort to further assist taxpayers and/or their representatives, the registration application may be presented in person at any of the DOR taxpayer service centers listed on page 4 of the registration application.

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## Court Cases

**Motor Vehicle Usage Tax**—On March 10, 2006, the Kentucky Court of Appeals ruled in favor of DOR in the case of **Finance & Administration Cabinet v. Beyer**, 193 S.W.3d 755 (Ky. App. 2006). In this motor vehicle usage tax case, the taxpayers purchased a new motor vehicle. Under KRS 138.460 and 138.450(12)(a), tax was applied to the retail price of the vehicle, *including* the trade-in allowance. The taxpayers asserted that the imposition of the tax in this manner violated the Equal Protection Clause of the United States Constitution and Section 2 of the Kentucky Constitution, because the retail price subject to tax for *used* motor vehicles excluded “any amount allowed as a trade-in allowance by the seller” KRS 138.450(12)(f).

The Court of Appeals held that the difference in treatment under the motor vehicle usage tax law between new and used motor vehicles did not constitute a constitutional violation. To survive the taxpayers’ constitutional challenge, the distinction made by the law must be rationally related to a legitimate state interest. This standard is satisfied so long as there is a plausible policy reason for the classification. The Court of Appeals’ decision states that the distinction made by the motor vehicle usage tax law between used and new motor vehicles “rationally further[ed] the goal of stimulating the used car industry” by making “the purchase of a used motor vehicle more economically attractive.”

This decision is now final.

**Sales and Use Tax**—Conseco Finance Corporation and Wells Fargo Financial Kentucky, Inc. (the appellants) financed consumer purchases of tangible personal property such as manufactured homes, boats, motorcycles and recreational vehicles. The purchases were made pursuant to retail installment contracts with Kentucky retailers. The consumer would apply to the appellants for financing. For those consumers whose credit was acceptable, the appellants would remit the contract price, including the amount of sales tax due, to the retailer, who would remit the tax to the DOR. The retailer would in turn assign its rights under the financed installment contracts to the appellants.



On occasion, a consumer would default on the retail installment contract. The appellants would attempt to recover the balances due through various means, but these efforts would not always be successful and the appellants would determine these amounts to be worthless and charge them off for income tax purposes. The appellants in turn claimed sales and use tax deductions pursuant to KRS 139.350 for these worthless accounts and these deductions formed the basis for the taxpayers’ refund claims.

In an opinion rendered on Nov. 23, 2005, the Kentucky Court of Appeals ruled that the appellants were not entitled to the bad debt deduction provided for in KRS 139.350. KRS 139.350 allows a deduction for sales taxes attributable to accounts found worthless and charged off for income tax purposes “[i]f the **retailer** ha[d] previously paid the amount of the tax.” The appellants were not the retailers who had paid the sales taxes on the transactions in question to the commonwealth.

This decision is now final. The appellants’ motion for discretionary review was denied by the Kentucky Supreme Court on Aug. 17, 2006. (**Conseco Finance Corporation and Wells Fargo Corporation v. Revenue Cabinet**, 2005-SC-1011-D (2004-CA-1838-MR).)

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## Louis A. Grief Tax School

The Louis A. Grief Tax Planning Institute will be held on Dec. 18-20, 2006 at the University of Louisville in the College of Business. Online registration and brochure will be available on Nov.

1. Call (502) 852-5847 for more information or visit [www.business.louisville.edu/taxinstitute](http://www.business.louisville.edu/taxinstitute).

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**Kentucky Department of Revenue; IRS Sponsor Electronic Filing Seminars**

The Kentucky Department of Revenue (DOR) and the Internal Revenue Service (IRS) will sponsor three in-state seminars on electronic filing of individual income tax returns this year. Each seminar runs from 1:00 p.m. to 5:00 p.m. local time, with registration beginning at 12:30 p.m. Topics covered by the IRS and DOR will benefit new e-filers as well as those who have previously participated. These seminars qualify for four hours of CPE credits. If you need a CPE certificate, please contact Geinine Lyles at [sbse.sl.tn@irs.gov](mailto:sbse.sl.tn@irs.gov).



Registration is necessary as space is limited.

Registration forms are being mailed to Kentucky electronic return originators (EROs) by the IRS in September. If you do not receive this form, please contact Judy Ritchie at the Kentucky DOR at (502) 564-5370 or by e-mail to [Judy.Ritchie@ky.gov](mailto:Judy.Ritchie@ky.gov) for a registration form. Seminars will be held at the following locations in Kentucky:

**Oct. 19, Thursday**      *Louisville*  
 East Jefferson County  
 Government Center  
 200 Juneau Drive  
 Louisville, KY

**Oct. 23, Monday**      *Bowling Green*  
 Chamber of Commerce  
 812 State Street  
 Bowling Green, KY

**Nov. 7, Tuesday**      *Lexington*  
 Lexington Public Library  
 140 East Main Street  
 Lexington, KY

In addition to the Kentucky seminars, the DOR will be presenting information on Kentucky returns at three locations in Indiana. Registration is at noon with the presentations beginning at 12:30 p.m. and ending at 5:00 p.m. local time.

You may register for the Indiana seminars by e-mailing your request to [IndianaTec@irs.gov](mailto:IndianaTec@irs.gov)

- Please provide:  
 Date and location you wish to attend  
 Name(s) of attendee(s)  
 Firm name and address  
 E-mail address  
 Telephone number  
 Current e-filers, your EFIN

The Indiana locations are as follows:

**Nov. 14, Tuesday**      *Evansville Indiana*  
 American Red Cross  
 SW Chapter  
 29 S Stockwell Road  
 Evansville, IN

**Nov. 15, Wednesday**      *Evansville Indiana*  
 Ivy Tech Community College  
 3501 First Avenue, Room 107  
 Evansville, IN

**Nov. 16, Thursday**      *Sellersburg Indiana*  
 Ivy Tech Community College  
 8204 Highway 311  
 Sellersburg, IN



**Kentucky Tax Alert** comments and suggestions should be addressed to the Office of Public Information, Finance Secretary's Office, Frankfort, Kentucky, (502) 564-9165, ext. 4500.

**ERNIE FLETCHER, Governor**

**JOHN FARRIS, Secretary**

**Finance and Administration Cabinet**

**MARIAN DAVIS, Commissioner**

**Department of Revenue**

*Editor* ..... Jill Midkiff  
*Production/Design* ..... Support Services  
*Publications Coordinator* ..... Sarah Gilkison

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The Department of Revenue can be found at [www.revenue.ky.gov](http://www.revenue.ky.gov).